

Health Care Financing Administration, HHS

§ 489.73

HCFA within 30 days of obtaining the bond from the new Surety.

(Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh)).

[63 FR 315, Jan. 5, 1998, as amended at 63 FR 10731, Mar. 4, 1998; 63 FR 29656, June 1, 1998; 63 FR 41171, July 31, 1998]

§ 489.68 Effect of failure to obtain, maintain, and timely file a surety bond.

(a) The failure of a participating HHA to obtain, file timely, and maintain a surety bond in accordance with this subpart F and HCFA's instructions is sufficient under § 489.53(a)(1) for HCFA to terminate the HHA's provider agreement.

(b) The failure of an HHA seeking to become a participating HHA to obtain and file timely a surety bond in accordance with this Subpart F and HCFA's instructions is sufficient under § 489.12(a)(3) for HCFA to refuse to enter into a provider agreement with the HHA.

§ 489.69 Evidence of compliance.

(a) HCFA may at any time require an HHA to make a specific showing of being in compliance with the requirements of this Subpart F and may require the HHA to submit such additional evidence as HCFA considers sufficient to demonstrate the HHA's compliance.

(b) If requested by HCFA to do so, the failure of an HHA to timely furnish sufficient evidence to HCFA to demonstrate compliance with the requirements of this Subpart F is sufficient for HCFA to terminate the HHA's provider agreement under § 489.53(a)(1) or to refuse to enter into a provider agreement with the HHA under § 489.12(a)(3), as applicable.

§ 489.70 Effect of payment by the Surety.

A Surety's payment to HCFA under a bond for an unpaid claim or an unpaid civil money penalty or assessment, constitutes—

(a) Collection of the unpaid claim or unpaid civil money penalty or assessment (to the extent the Surety's payment on the bond covers such unpaid claim, civil money penalty, or assessment); and

(b) A basis for termination of the HHA's provider agreement under § 489.53(a)(1).

§ 489.71 Surety's standing to appeal Medicare determinations.

A Surety has standing to appeal any matter that the HHA could appeal, provided the Surety satisfies all jurisdictional and procedural requirements that would otherwise have applied to the HHA, and provided the HHA is not, itself, actively pursuing its appeal rights under this chapter, and provided further that, with respect to unpaid claims, the Surety has paid HCFA all amounts owed to HCFA by the HHA on such unpaid claims, up to the amount of the bond.

[63 FR 29656, June 1, 1998]

§ 489.72 Effect of review reversing determination.

In the event a Surety has paid HCFA on the basis of liability incurred under a bond obtained by an HHA under this subpart F, and to the extent the HHA that obtained such bond (or the Surety under § 489.71) is subsequently successful in appealing the determination that was the basis of the unpaid claim or unpaid civil money penalty or assessment that caused the Surety to pay HCFA under the bond, HCFA will refund to the Surety the amount the Surety paid to HCFA to the extent such amount relates to the matter that was successfully appealed by the HHA (or by the Surety), provided all review, including judicial review, has been completed on such matter. Any additional amounts owing as a result of the appeal will be paid to the HHA.

§ 489.73 Effect of conditions of payment.

If a Surety has paid an amount to HCFA on the basis of liability incurred under a bond obtained by an HHA under this subpart F, and HCFA subsequently collects from the HHA, in whole or in part, on such unpaid claim, civil money penalty, or assessment that was the basis for the Surety's liability, HCFA reimburses the Surety such amount as HCFA collected from the HHA, up to the amount paid by the Surety to HCFA, provided the Surety